

adjacent cylindrical elements to one another, at least one cylindrical element having a W-shaped peak portion connected to a peak portion of an adjacent cylindrical element and a W-shaped valley portion connected to a valley portion of an opposite adjacent cylindrical element

Please cancel without prejudice claims 2, 5 and 12.

REMARKS

This Amendment is responsive to the final Office Action dated August 15, 2002. Claims 1-31 are pending in this application. Applicant notes that the Examiner has indicated that claims 3-4, 6-7, 9-12, 15-20, and 24-31 are objected to as being upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant has rewritten claims 11, 17, 24, 30, and 31 as independent claims in this Amendment. These same claims, along with claim 1, also have been amended to change the language “a plurality of interconnecting members” to “at least one interconnecting member extended between a connecting adjacent cylindrical elements to one another.” Additionally, claim 1 has been amended to include the subject matter of dependent claims 2 and 5.

Accordingly, claims 2 and 5 have been cancelled without prejudice. Claim 23 has been amended to include similar language as claim 1. Claim 12 also has been cancelled without prejudice to address the Examiner's objection regarding claims 13 and 14. Accordingly, claim 13 has been amended to depend from claim 10. Additionally, claims 3, 6 and 15 have been amended to change their dependency in view of the cancellation of claims 2, 5 and 12. Claim 15 also has also been amended to correct language in the claim to make the claim clearer.

In the final Office Action, the Examiner rejected claims 1, 21 and 23 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,042,597 to Kween et al. (the "Kween patent"). Additionally, claims 2, 15^x, 8, and 22 were rejected under 35 U.S.C. §103(a) as being unpatentable over the Kween patent. Applicant has reviewed the Kween patent and believes that this particular reference fails to disclose or suggest the invention of the pending claims for several reasons. First, the cylindrical elements in the Kween patent and specifically the embodiment of FIG. 4 relied upon by the Examiner in the Office Action are not disposed in a generally serpentine wave pattern transverse to the longitudinal axis of the stent, as recited in the claims at issue. Rather, as is clearly shown in FIG. 4 of the Kween patent, each cylindrical element is disposed at an angulation which is not transverse to the longitudinal stent axis. As such, the Kween

patent fails to show the basic structure of the invention as presently claimed.

Applicant's use of differing lengths to form the peak and valley portions of the cylindrical elements would not have been obvious from the limited teachings of the Kween patent. Since the Examiner believes that each cylindrical element in the Kween patent is capable of nesting, there would be no need to change the longitudinal length of the various peak and valley portions forming each cylindrical element. Therefore, even assuming *arguendo* that the adjacent peak portions and valley portions of the cylindrical element shown in FIG. 4 of the Kween patent are capable of nesting, there would be no reason for one skilled in the art to change the longitudinal length of the peaks and valleys to achieve nesting. The stent disclosed in the Kween patent possibly achieves nesting, however, it is done by setting each cylindrical element at an offset angle with the longitudinal stent axis. Therefore, the Kween patent fails to teach or suggest the use of different lengths to form the valley and peak portions which Applicant has developed. Accordingly, Applicant believes that the Examiner has used impermissible hindsight in an attempt to create Applicant's invention.

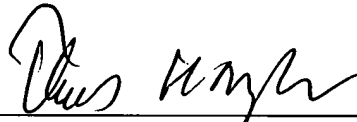
In view of the amendment to claim 1, which now incorporates the subject matter of claims 2 and 5, it is believed that claim 1 would not have been obvious in view of the Kween patent. Likewise, claims 8 and 23, which also recite the use of differing

lengths for the valley and peak portions would likewise be patentable.

In view of the foregoing, it is respectively urged that all of the present claims of the application are patentable and in a condition for allowance. The undersigned attorney can be reached at 310-824-5555 to facilitate prosecution of this application, if necessary.

Attached hereto is a marked up version of the changes made to the claims by the current Amendment. The attached page is captioned "VERSION WITH MARKINGS TO SHOW CHANGES MADE."

Respectfully submitted,
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“VERSION WITH MARKINGS TO SHOW CHANGES MADE”

1. (Twice Amended) A stent for implanting in a body lumen, comprising:
a plurality of adjacent cylindrical elements each having a circumference extending about a longitudinal stent axis and being substantially independently expandable in a radial direction, each cylindrical element being arranged in alignment along the longitudinal stent axis and formed in a generally serpentine wave pattern transverse to the longitudinal axis and containing alternating valley portions and peak portions, wherein at least two adjacent valley portions and two adjacent peak portions on each cylindrical element have differing longitudinal lengths which permit [are capable of] nesting when the stent is crimped or collapsed; and

[a plurality of] at least one interconnecting [members] member extending between [the adjacent cylindrical elements] and connecting adjacent cylindrical elements to one another.

3. (Amended) The stent of claim [2] 1, wherein:
one valley portion is a V-shaped portion and the other adjacent valley portion is a W-shaped portion having different longitudinal lengths.

6. (Amended) The stent of claim [5] 1, wherein:

one peak portion is a V-shaped portion and the adjacent peak portion is a W-shaped portion having different longitudinal lengths.

11. (Amended) [The stent of claim 1, wherein:] A stent for implanting in a body lumen, comprising:

a plurality of adjacent cylindrical elements each having a circumference extending about a longitudinal stent axis and being substantially independently expandable in a radial direction, each cylindrical element being arranged in alignment along the longitudinal stent axis and formed in a generally serpentine wave pattern transverse to the longitudinal axis and containing alternating valley portions and peak portions, wherein at least two adjacent valley portions and two adjacent peak portions on each cylindrical element are capable of nesting when the stent is crimped or collapsed;
and

at least one interconnecting member extending between and connecting adjacent cylindrical elements to one another, the interconnecting members [connect] connecting W-shaped valley portions with V-shaped valley portions of adjacent cylindrical elements .

13. (Amended) The stent of claim [12] 10, wherein:

the interconnecting member connects W-shaped valley portions with V-shaped valley portions on adjacent cylindrical elements.

15. (Amended) The stent of claim [12] 13, wherein:

each cylindrical element has at least two peak portions [having a] which are W-shaped portions and two valley portions [having a] which are W-shaped portions.

17. (Amended) [The stent of claim 1, wherein:] A stent for implanting in a body lumen, comprising:

a plurality of adjacent cylindrical elements each having a circumference extending about a longitudinal stent axis and being substantially independently expandable in a radial direction, each cylindrical element being arranged in alignment along the longitudinal stent axis and formed in a generally serpentine wave pattern transverse to the longitudinal axis and containing alternating valley portions and peak portions, wherein at least two adjacent valley portions and two adjacent peak portions on each cylindrical element are capable of nesting when the stent is crimped or collapsed

and each cylindrical element includes at least four valley portions having a W-shaped portion; and

at least one interconnecting member extending between and connecting adjacent cylindrical elements to one another.

23. (Amended) A stent for implanting in a body lumen, comprising:

a plurality of adjacent cylindrical elements each having a circumference extending about a longitudinal stent axis and being substantially independently expandable in a radial direction, each cylindrical element being arranged in alignment along the longitudinal stent axis and formed in a generally serpentine wave pattern transverse to the longitudinal axis and containing alternating valley portions and peak portions, wherein at least two adjacent valley portions and two adjacent peak portions on each cylindrical element [is capable of] have differing longitudinal lengths which permit nesting when the stent is crimped or collapsed; and

means for connecting adjacent cylindrical elements together.

24. (Amended) [The stent of claim 1, wherein:] A stent for implanting in a body lumen, comprising: